

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

BRIAN K. JOHNSON,

Petitioner,

v.

STATE OF WASHINGTON,

Respondent.

CASE NO. C18-1630-RSM-JPD

REPORT AND RECOMMENDATION

On November 6, 2018, petitioner submitted to the Court for filing a petition for writ of habeas corpus under 28 U.S.C. § 2254. (*See* Dkt. 1.) Petitioner was at that time confined at the King County Regional Justice Center (RJC) in Kent, Washington. (*See id.*) Petitioner did not submit with his petition either the requisite filing fee or an application to proceed with this action *in forma pauperis*. The Clerk therefore sent petitioner a deficiency letter advising him that he would have to either pay the filing fee, or submit an application to proceed *in forma pauperis*, by December 10, 2018, or face dismissal of this action. (Dkt. 2.) On November 19, 2018, the copy of the Clerk's letter mailed to petitioner at his address of record, the RJC, was returned by the post office with a notation indicating that petitioner was no longer in jail. (*See* Dkt. 4.) To date, petitioner has not provided the Court with an updated address.


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1 Because over sixty days have passed since mail directed to petitioner at his address of
2 record was returned by the post office, and because petitioner has not notified the Court of his
3 current address, this action should be dismissed, without prejudice, for failure to prosecute
4 pursuant to LCR 41(b)(2). A proposed order accompanies this Report and Recommendation.

5 Objections to this Report and Recommendation, if any, should be filed with the Clerk and
6 served upon all parties to this suit by no later than February 21, 2019. Failure to file objections
7 within the specified time may affect your right to appeal. Objections should be noted for
8 consideration on the District Judge's motion calendar for the third Friday after they are filed.
9 Responses to objections may be filed within **fourteen (14)** days after service of objections. If no
10 timely objections are filed, the matter will be ready for consideration by the District Judge on
11 **February 22, 2019.**

12 This Report and Recommendation is not an appealable order. Thus, a notice of appeal
13 seeking review in the Court of Appeals for the Ninth Circuit should not be filed until the
14 assigned District Judge acts on this Report and Recommendation.

15 DATED this 30th day of January, 2019.

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18 JAMES P. DONOHUE
19 United States Magistrate Judge
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